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CONVENTION ON THE LAW OF THE NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES

Letter dated 17 December 1996 from the Permanent Representatives of Bangladesh and India to the United Nations addressed to the Secretary-General

On behalf of the Governments of Bangladesh and India, we have the honour to forward herewith the text of the Treaty between the Government of the Republic of India and the Government of the People's Republic of Bangladesh on sharing of the Ganga/Ganges Waters at Farakka, signed by Their Excellencies the Prime Ministers of the two countries at New Delhi on 12 December 1996. Guided by the spirit of friendship and good-neighbourliness, the signing of the Treaty has led to the resolution of a long-standing issue through effective bilateral negotiations.

It is requested that the present letter along with the text of the Treaty be circulated as a document of the General Assembly, under agenda item 144.

(Signed) Anwarul Karim CHOWDHURY
Ambassador
Permanent Representative of
Bangladesh to the United Nations
New York

(Signed) Prakash SHAH
Ambassador
Permanent Representative of
India to the United Nations
New York

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ANNEX

Treaty between the Government of the Republic of India and the Government of the People's Republic of Bangladesh on the sharing of the Ganga/Ganges Waters at Farakka

The Government of the Republic of India and the Government of the People's Republic of Bangladesh,

Determined to promote and strengthen their relations of friendship and good neighbourliness,

Inspired by the common desire of promoting the well-being of their peoples,

Being desirous of sharing by mutual agreement the waters of the international rivers flowing through the territories of the two countries and of making the optimum utilization of the water resources of their region in the fields of flood management, irrigation, river basin development and generation of hydro-power for the mutual benefit of the peoples of the two countries,

Recognizing that the need for making an arrangement for sharing of the Ganga/Ganges waters at Farakka in a spirit of mutual accommodation and the need for a solution to the long-term problem of augmenting the flows of the Ganga/Ganges are in the mutual interests of the peoples of the two countries,

Being desirous of finding a fair and just solution without affecting the rights and entitlements of either country other than those covered by this Treaty, or establishing any general principles of law or precedent,

Have agreed as follows:

Article I

The quantum of waters agreed to be released by India to Bangladesh will be at Farakka.

Article II

(i) The sharing between India and Bangladesh of the Ganga/Ganges waters at Farakka by 10-day periods from 1 January to 31 May every year will be with reference to the formula in appendix I and an indicative schedule giving the implications of the sharing arrangement under appendix I is in appendix II.

(ii) The indicative schedule in appendix II, as referred to in subparagraph (i) above, is based on a 40 years' (1949-1988) 10-day period average availability of water at Farakka. Every effort would

be made by the upper riparian to protect flows of water at Farakka as in the 40-years average availability as mentioned above.

(iii) In the event flow at Farakka falls below 50,000 cusecs in any 10-day period, the two Governments will enter into immediate consultations to make adjustments on an emergency basis, in accordance with the principles of equity, fair play and no harm to either party.

Article III

The waters released to Bangladesh at Farakka under article I shall not be reduced below Farakka except for reasonable uses of waters, not exceeding 200 cusecs, by India between Farakka and the point on the Ganga/Ganges where both its banks are in Bangladesh.

Article IV

A committee consisting of representatives nominated by the two Governments in equal numbers (hereinafter called the Joint Committee) shall be constituted following the signing of this Treaty. The Joint Committee shall set up suitable teams at Farakka and Hardinge Bridge to observe and record at Farakka the daily flows below Farakka Barrage, in the Feeder Canal, and at the Navigation Lock, as at the Hardinge Bridge.

Article V

The Joint Committee shall decide its own procedure and method of functioning.

Article VI

The Joint Committee shall submit to the two Governments all data collected by it and shall also submit a yearly report to both Governments. Following submission of the reports the two Governments will meet at appropriate levels to decide upon such further actions as may be needed.

Article VII

The Joint Committee shall be responsible for implementing the arrangements contained in this Treaty and examining any difficulty arising out of the implementation of the above arrangements and of the operation of Farakka Barrage. Any difference or dispute arising in this regard if not resolved by the Joint Committee, shall be referred to the Indo-Bangladesh Joint Rivers Commission. If the difference or dispute still remains unresolved, it shall be referred to the two Governments which shall meet urgently at the appropriate level to resolve it by mutual discussion.

Article VIII

The two Governments recognize the need to cooperate with each other in finding a solution to the long-term problem of augmenting the flows of the Ganga/Ganges during the dry season.

Article IX

Guided by the principles of equity, fairness and no harm to either party, both Governments agree to conclude water-sharing Treaties/Agreements with regard to other common rivers.

Article X

The sharing arrangement under this Treaty shall be reviewed by the two Governments at a five years' interval or earlier, as required by either party, and needed adjustments, based on principles of equity, fairness and no harm to either party made thereto, if necessary. It would be open to either party to seek the first review after two years to assess the impact and working of the sharing arrangement as contained in this Treaty.

Article XI

For the period of this Treaty, in the absence of mutual agreement on adjustments following reviews as mentioned in article X, India shall release downstream of Farakka Barrage water at a rate not less than 90% (ninety per cent) of Bangladesh's share according to the formula referred to in article II, until such time as mutually agreed flows are decided upon.

Article XII

This Treaty shall enter into force upon signature and shall remain in force for a period of 30 years and it shall be renewable on the basis of mutual consent.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by the respective Governments, have signed this Treaty.

DONE at New Delhi on 12 December 1996 in the Hindi, Bangla and English languages. In the event of any conflict between the texts, the English text shall prevail.

(Signed) H. D. Deve GOWDA
Prime Minister
Republic of India

(Signed) Sheikh HASINA
Prime Minister
People's Republic of Bangladesh

APPENDIX I

Availability at Farakka	Share of India	Share of Bangladesh
70 000 cusecs or less	50 per cent	50 per cent
70 000-75 000 cusecs	Because of flow	35 000 cusecs
70 000 cusecs or more	40 000 cusecs	Balance of flow

Subject to the condition that India and Bangladesh each shall receive guaranteed 35,000 cusecs of water in alternate three 10-day periods during the period 1 March to 10 May.

APPENDIX II

Schedule

Sharing of waters at Farakka between 1 January and 31 May every year

If actual availability corresponds to average flows of the period 1949 to 1988, the implication of the formula in appendix I for the share of each side is:

Period	Average of total flow 1949-1988 (cusecs)	India's share (cusecs)	Bangladesh's share (cusecs)
January			
1-10	107 516	40 000	67 516
11-20	97 673	40 000	57 673
21-31	90 154	40 000	50 154
February			
1-10	86 323	40 000	46 323
11-20	82 859	40 000	42 859
21-28	79 106	40 000	39 106
March			
1-10	74 419	39 419	35 000
11-20	68 931	33 931	35 000
21-31	64 688	35 000	29 688
April			
1-10	63 180	28 180	35 000
11-20	62 633	35 000	27 633
21-30	60 992	25 992	35 000
May			
1-10	67 351	35 000	32 351
11-20	73 590	38 590	35 000
21-31	81 854	40 000	41 854